

COMMENTS OF NOBLE AMERICAS ENERGY SOLUTIONS LLC

Introduction

Noble Americas Energy Solutions LLC (“Noble Solutions”) hereby submits its comments on the Proposed Amendments to the Mandatory Reporting Regulation (“MRR”) [Division 3, Chapter 1, Subchapter 10, Article 2 of Title 17, California Code of Regulations (“CCR”).]¹ The Proposed Amendments were issued on August 1, 2012.

Noble Solutions is a California Electric Service Provider (“ESP”) as defined in California Public Utilities Code §218.3. Noble Solutions has been serving retail electric customers in California since 1998. As a California ESP, Noble Solutions is an “Electric Power Entity” under 17 CCR §95101(d)(2), and an occasional “Electricity Importer” under 17 CCR §95811(b)(2). It is important to emphasize that Noble Solutions finds itself an occasional “Electricity Importer” almost entirely as a consequence of having to meet its compliance obligations under California’s Renewable Portfolio Standard (“RPS”).² Noble Solutions has previously participated in the development of the various AB 32 implementation rules through written comments and participation at public meetings convened by the California Air Resource Board (“ARB”).

¹ Unless otherwise specified, references to individual sections refer to Title 17 of the CCR.

² The California Renewables Portfolio Standard, codified at Public Utilities Code Sec. 399.11 et seq., was originally created in 2002, and has been modified and amended several times, most recently by SB 2 (1X), which established an RPS procurement target of 33% by the year 2020. The RPS is implemented by rules, regulations and directives promulgated by the California Energy Commission (“CEC”) and the California Public Utilities Commission (“CPUC”).

§95111(g)(1)(M)

Noble Solutions has previously submitted comments to the ARB, emphasizing the importance of harmonizing the ARB's GHG compliance regime with the CPUC's Renewable Portfolio Standard ("RPS") program. Procurement from qualified Renewable Resources, and the accounting of the Renewable Energy Credits ("RECs") that are evidence of this procurement, must be able to serve both an entity's GHG compliance obligations and its RPS compliance obligations.

It is with this fundamental principle in mind that Noble Solutions calls attention to the proposed amendment to §95111(g)(1)(M), which reads in pertinent part:

(M) Provide the serial numbers of Renewable Energy Credits (RECs) as specified below:

1. RECs associated with electricity procured from an eligible renewable energy resource and reported as an RPS adjustment as well as whether the RECs have been placed in a retirement subaccount and designated as retired for the purpose of compliance with the California RPS program.

It is vital that the phrase "whether the RECs have been placed in a retirement subaccount" be interpreted quite literally. That is, it must refer to the report of the status of the RECs (whether or not they have been placed in a retirement subaccount) used for claiming the RPS adjustment, rather than establishing a requirement that the RECs be placed in such a subaccount as a condition of claiming the RPS adjustment. This is important because for RPS compliance purposes, a REC need not be retired in the year in which it was created.³

The RPS adjustment for GHG purposes must allow for the identification of RECs in the year in which the RPS adjustment is claimed, even though those RECs might not be retired for RPS compliance purposes until some later year. Since each REC bears a unique identifying number assigned and tracked by the Western

³ See PU Code § 399.21(a)(6) and CPUC Decision No. 21-06-038, pp. 48-51.

Renewable Energy Generation Information System (“WREGIS”), there is no risk to using the same RECs for both GHG and RPS compliance purposes, even if they are claimed under their respective programs in different years. In most instances for retail providers who are also Electric Service Providers, like Noble Solutions, a REC is retired in the year it is claimed for RPS purposes irrespective of the year in which the REC was created.⁴ For GHG reporting purposes, a REC needs to be reported in the year of its creation, but does not need to be retired in the year it is reported. It is essential that the rules promulgated by ARB and the CPUC be in harmony, to insure that the complementary policies of GHG management and RPS development can be met.

Reporting Tool

Noble Solutions has observed that the GHG Reporting Tool, as currently designed, does not accommodate the interpretation of §95111(g)(1)(M) articulated above. Certain cells do not permit the reporting of RECs for purposes of claiming the RPS adjustment without identifying the RECs as being retired in a WREGIS retirement subaccount. The Reporting Tool must be modified to accommodate the reporting of RECs for purposes of claiming the RPS adjustment, without requiring identification of the RECs as being retired in WREGIS.

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⁴ This general rule may not apply to certain RECs associated with long-term and grandfathered contracts.